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CHARLES, MARCUS	
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RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KAZUMASA AYUKAWA and HIROMI MATSUURA

Appeal 2008-1475
Application 09/961,365
Technology Center 3600

Oral Hearing Held: August 12, 2008

Before MURRIEL E. CRAWFORD, DAVID B. WALKER, and JOHN C. KERINS, Administrative Patent Judges

ON BEHALF OF THE APPELLANT:

LINDA JOHNSON HODGE, ESQUIRE
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The above-entitled matter came on for hearing on Tuesday, August 12, 2008, commencing at 9:18 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Victoria L. Wilson, Notary Public.

PROCEEDINGS

THE USHER: Calendar number 4, Appeal Number 2008-1475. Ms. Hodge.

JUDGE CRAWFORD: Good morning, Ms. Hodge.

MS. HODGE: Good morning.

Should I stand here?

JUDGE CRAWFORD: Pardon me?

MS. HODGE: Should I stand here?

JUDGE CRAWFORD: Yes.

We have had a chance to talk about the case a little bit. You can start whenever you are ready.

MS. HODGE: Okay. I know you are all familiar with it. I wanted to try to focus on something particular, in particular, the damping forces.

In the end of Claim 1, there is a first and second damping force. In particular, the claim language is, "said rocking arm being supported to be able to be displaced relative to the base such that a first damping force when -- on the rocking arm when the belt tension is larger than the damping force when the belt is slack."

And that's shown, I think, pretty clearly in figure 5 where you can see the tipping and the change in angle L1 relative to L4 there.

And in the rejections and in the Examiner's Answer, in the rejection of 103 over Yasuhito and Kotzab, the Examiner takes the position that it is apparent that the first damping force in the Kotzab reference -- I'm sorry -- is apparent that the first damping force acting on the arm is relatively larger than the second damping force and due to the eccentricity of the spring to

the axial center in the Kotzab reference.

However, I don't think that that necessarily is apparent. In particular, in the present invention, the amount of the first damping force is amplified by the eccentricity of the coil spring but, also, additionally, the tipping that I spoke about also contributes to the increased damping force.

And the prior art reference doesn't have -- have the tipping. In particular, as you can see in Kotzab in Figure 1, the member 19, which is the inner cylindrical portion, is compared with the roller bearing 22.

Those two members don't have the space in order to allow for the tipping, so that, therefore, the combination of the references as the Examiner applied them doesn't have this -- this feature that the invention has where the rocking arm is supported to be able to be displaced relative to the base so that the first damping force is larger than the second one.

JUDGE KERINS: Counsel, you refer in Kotzab to the interface between the roller bearing and the rocker arm or the roller bearing and the base. Isn't there a bushing in there, as well, that's --

MS. HODGE: 19 and 22. Maybe.

JUDGE KERINS: The bushing is between the rocker arm and the torsion spring but it seemed your earlier argument about this being not able to tilt had to do with that the components in Kotzab were too long or too -- had too much length in order to -- in the axial direction so as not to be able to tilt.

I guess in terms of that, I was wondering what in your claim gave us structure that would -- that would define such that we are -- such that in your tensioner you will get that tilt.

MS. HODGE: That's a good question. The -- the language that that's

directed to it is the arm being supported to be able to be displaced.

So that's -- that's really the only recitation in the language of the claim that -- that sets forth that the action, the function, of the first damping force being larger due to the tilting.

So there isn't -- there isn't a recitation in there about the tilting in the claim. There is the language "being supported" and that's what -- what we are relying on for that feature is the "being supported to be able to be displaced relative such that."

Does anybody have any other questions? That's really what I wanted to --

JUDGE KERINS: I do have one other question. In your specification, you describe the prior art as having a bushing that completely fills the space between the rocker arm and the base and that prevents the tilt. Let's see if I can find it. I apologize. I thought I had marked it in my copy. I'm looking for it here.

Specification page 23, line 16, ""In a conventional device, the clearance between the base and the rocking arm or steped bolt was filled completely by a synthetic resin bushing. Tilt of the rocking arm or relative displacement in the radial direction were not allowed." Do you see that about three-quarters of the way down page 23.

MS. HODGE: Actually, I was just going to -- I understand it but I don't have that in front of me but --

JUDGE KERINS: I was just curious, I suppose. In your drawings, figure 2 appears to show a bushing completely occupying the space between the rocker -- rocking arm and the base.

MS. HODGE: Well, I believe that that's -- that is referring to the

space that is available for the rocking is the space between 244, the rocking shaft, and the portion of the base that's numbered 38.

So there is the cup going down like this and then the other cup here, so the bushing is here around the outside part, like you said, but the -- the inside part, when you look at figure 2, you can see that the bolt comes up and then the rocker arm is down here and then the -- then there is the base has another inner ring and that's -- in the inner part is where the space is.

So if you compare figure 2 with figure 5, that's where the -- where the space is for the tilt. So it is very much exaggerated in figure 5. In fact, the spec says that you wouldn't be able to see the tilt.

So you are absolutely right that that bushing is in there but I think there is just apparently enough play on the inside between the inside two pieces to allow for some tilt. So --

JUDGE KERINS: I have no more questions.

JUDGE CRAWFORD: Any questions?

Thank you.

MS. HODGE: Thank you very much. Have a great day.

(Whereupon, the proceedings at 9:27 a.m. were concluded.)